

Section-by-Section

SECTION 1. Short Title – The “No Regulation Without Representation Act of 2016”

SECTION 2. Minimum Jurisdictional Standards for State and Local Regulation of Items in Interstate Commerce

- (a) In General. – A State may not obligate a person to (1) collect a sales, use or similar tax; (2) report the sale; or (3) assess a tax on a person; or (4) treat the person as doing business in a state for purposes of such tax, unless the person is physically present in that state during the relevant taxing period.
- (b) Requirements For Physical Presence.—
- (1) In General.— Person has physical presence only if during the calendar year the person (a) owns or leases real property or (b) tangible property in the state; (c) has employees, agents or independent contractors in the state specifically soliciting product or service orders from customers in the state or (d) providing design, installation or repair services there; (e) maintains an office in-state with three or more employees for any purpose.
- (2) De Minimis Physical Presence.— “Physical presence” does not include (1) referral agreements with in-state persons who receive commissions for referring customers to the seller; (2) presence for less than 15 days in a taxable year; (3) product delivery in-state by a third-party; (4) Internet advertising services not exclusively directed towards, or exclusively soliciting in-state customers.
- (c) Protection of Non-Sellers. —Sales tax payment, collection or reporting obligations may only be imposed on a purchaser or seller having a physical presence in the taxing State.

SECTION 3. Dispute Resolution – U.S. district courts have full and original jurisdiction over civil actions to enforce this Act.

SECTION 4. Definitions and Effective Date

(a) Definitions

- (1) **MARKETPLACE PROVIDER.** Includes a person, other than a seller, who facilitates a sale by both (i) listing or advertising the products in any forum, including a catalogue or Internet, and, (ii) collects money either directly or indirectly from the customer and transmits it to the Marketplace Seller, irrespective of any service fee.
- (2) **MARKETPLACE SELLER.** Means a person that has any sales facilitated by a Marketplace Provider.
- (3) **REFERRER.** Every person who (i) contracts with a seller to list multiple items for sale along with the prices thereof in any forum, including the Internet, (ii) is compensated

for such listing, (iii) transfers the customer, via telephone, Internet link, or otherwise, to the seller to complete a purchase and (iv) does not collect the customer's money.

(4) PERSON.— Has the meaning given such term by section 1 of title 1 of the United States Code. Each corporation that is a member of a group of affiliated corporations, whether unitary or not, is itself a separate “person.”

(5) SELLER. — Does not include any marketplace provider (*e.g.*, online platform for sellers); (b) referrer (*e.g.*, blogger with ads on page); (c) third-party delivery company in which the seller does not have an ownership interest; (d) transaction or billing processor or financial intermediary.

(6) SIMILAR TAX. —Means a tax that is imposed with respect to the sale or use of a product or service, regardless whether the tax is imposed on the person making the sale or the purchaser, with the right or obligation of the person making the sale to obtain reimbursement for the amount of the tax from the purchaser at the time of the transaction.

(7) STATE.—Includes local political subdivisions as well as D.C. and any territory or possession of the U.S.

(b) Effective Date.— January 1, 2017.